

Remarks

This pending application is a reissue continuation of 09/776,394, which is a reissue application of U.S. Patent No. 5,865,846.

Claims 4-9, 13, 30, 31, 33-35, and 37 are pending in the application. This paper amends independent claim 33 to further define the claimed subject matter as agreed in the examiner interview and documented in the Office Action. Accordingly, claim 33 and its associated dependent claims should be in condition for allowance.

Reconsideration of the presently pending claims is respectfully requested in light of the following remarks.

Status

The Office Action indicates that upon filing the amendment referenced in the Office Action (and included herein), all claims will be allowable, subject to only a new reissue declaration.

Reissue Oath/Declaration

As discussed in a telephone conversation on June 2, 2010, in response to this paper, the Examiner will issue a final Office Action indicating that only a Supplemental Declaration is required. Afterwards, the Applicants will obtain and file a new Supplemental Declaration in response to the final Office Action.

Compliance with 35 U.S.C. § 102 and § 103

The Office Action acknowledged that all claims would be allowable over the prior art subject to amending claim 33 to recite, “and a circumferential rim extending entirely about a periphery of the middle portion.” This paper amends claim 33 as agreed by adding the new language “a periphery of.” For the convenience of the Examiner, claim 33 is reproduced below to show the changes introduced in this paper.

33. A method for inserting an intervertebral disc prosthesis having a first and second surface, the method comprising:

after removal of an intervertebral disc, forming a first indentation in a first endplate of a first vertebral body, the first indentation having a middle portion and a circumferential rim extending entirely about a periphery of the middle portion, such that the middle portion is deeper into the first vertebral body than any part of the circumferential rim;

fixedly mating the first surface to the first indentation of the first endplate of the first vertebral body, the first surface having a shape that conforms to the first indentation; and

fixedly mating the second surface to a second vertebral body,
wherein the first and second surfaces are capable of relative movement after being mated to the first and second vertebral bodies, respectively.

Accordingly, Applicants respectfully request that the Examiner allow claim 33 and its associated dependent claims.

Conclusion

In view of the foregoing remarks, all of the claims currently pending in this application are in a condition for allowance over the prior art. A telephone interview is respectfully requested to discuss any remaining issues in an effort to expedite the allowance of this application.

Respectfully submitted,

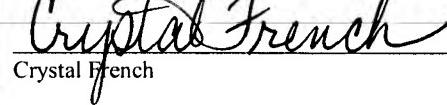


Dustin T. Johnson
Registration No. 47,684

Dated: June 2, 2010

HAYNES AND BOONE, LLP
Telephone: 972/739-6969
Facsimile: 214/200-0853
Attorney Docket No.: 31132.189/PC904.08
R-253734_1.DOC

I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via EFS-Web on June 2, 2010.


Crystal French